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March 14, 2018

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Deployment, WT Docket No. 17-79; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Deployment, WT Docket No. 17-84; Promoting Investment in the 3550-3700 MHz Band, GN Docket No. 17-258

Dear Ms. Dortch:

On March 12, 2018, Tamara Preiss, Andy Lachance, and Patrick Welsh of Verizon met with Louis Peraertz of Commissioner Clyburn's office to discuss the above-captioned proceedings.

Wireless Infrastructure

Verizon fully supports the Commission's draft order that will eliminate costly environmental and historic preservation reviews for certain small cells that are unlikely to affect the environment and historic properties. Tailoring the Commission's environmental rules and policies to the small wireless facilities that providers are deploying today will speed wireless broadband deployment and pave the way for enhanced 4G and 5G networks. The draft order's provisions to streamline tribal reviews for larger wireless broadband facilities will likewise speed broadband deployment and eliminate costs, thus freeing up resources that can, in turn, be used to deploy more facilities.

We suggested the following changes to the draft order to eliminate uncertainty and avoid unintended consequences:

1. The Commission appropriately addresses situations where small cell antennas themselves are not greater than three cubic feet in volume. But the enclosures often required by localities for aesthetic purposes may be slightly larger than three cubic feet. To address this concern, the antenna size limit in paragraph 71 should be changed to read: "To qualify as a small wireless facility, the antenna associated with the deployment, excluding the associated equipment, must be no more than three cubic feet in volume."

2. The Commission should clarify or modify the draft order to address situations where a pole's height must be increased to allow adequate separation between existing utility equipment and the wireless antennas at the top of the pole. These separation requirements often result in a need to increase the pole height by five to eight feet, which is often more than 10 percent for 30 to 50 foot tall utility poles. To address this issue, Commission should either clarify or modify the language in paragraph 70 so the 10 percent limit on height increases to existing structures applies only if the increase makes the pole more than 50 feet tall. Otherwise, the Commission should change the second half of the fourth sentence in paragraph 70 to read, ". . . or where the existing structure to which the small wireless facility is affixed is not extended by more than 10 feet as a result of the deployment." Alternatively, the Commission could allow height increases of 10 percent or five feet, whichever is greater.
3. The Commission should modify the draft order to make clear that there must be evidence to support a tribal claim "that historic properties are likely to be located in the site vicinity" (draft order para. 116), which could trigger the need for the applicant to hire a qualified contractor or consultant to investigate. The Commission should therefore add language to the paragraph stating, "A determination by tribes that 'historic properties are likely to be located in the site vicinity' must be supported by evidence that an intact historic property of religious and cultural significance to the tribe is present." Any disputes between the applicant and the tribe about the evidentiary basis for the tribe's determination should be resolved by the Commission, consistent with the Nationwide Programmatic Agreement.¹
4. The Commission should make clear that deploying small facilities that operate on 3.5 GHz GAA licenses are not federal undertakings or major federal actions. This frequency band is likely to be used for small cells, and the Commission's involvement in granting those licenses will be less than its involvement in the placement of facilities operating on geographic area licenses. The Commission should clarify the status of 3.5 GHz small cells by revising the first sentence in paragraph 42 to read: "We emphasize that our decision today is limited to small wireless facilities that are deployed to provide service under geographic area licenses or are licensed by rule and are not subject to ASR." The Commission should also add a footnote at the end of that sentence saying: "For example, facilities operating on 3.5 GHz GAA licenses would not be undertakings if all other size limitations were met."
5. The Commission should change the draft order by copying the rulemaking authority cited in footnote 56 at the end of paragraph 42 into footnote 56, rather than requiring the reader to go to another Commission order to find the authority.

These relatively minor but important changes to the draft order will make the order's provisions more clear, eliminate unintended consequences of the rules as originally drafted, and make the order easier to implement for all parties.

¹ Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, 47 C.F.R. Part 1, App. C, Section IV.G.

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3.5 GHz Priority Access Licenses

We expressed support for targeted changes to the licensing regime for Priority Access Licenses (“PALs”). First, we described how license renewability and longer license terms would promote long-term investment in the 3550-3700 MHz band. Second, we urged the FCC to adopt larger geographic areas for PALs. While we recognize that there is no optimal geographic size for all bidders, we explained that it is generally easier to disaggregate down in a secondary market than to aggregate up to a desired size at auction. We noted that as long as licenses can be partitioned and disaggregated post-auction, deviations from optimal license size at auction can be readily corrected in the secondary market.

Sincerely,

A handwritten signature in black ink, reading "Andre J. Lachance". The signature is written in a cursive, flowing style.

cc: (via email) Louis Peraertz